



MAYOR AND COUNCIL AGENDA

NO. 10

DEPT.: Community Planning and Development Services /
Contact: Cas Chasten, Planner III

DATE: 12/21/04

ACTION: Public hearing on Map Amendment Application MAP2004-00092 confirming Zoning Classification of property approximately 42,886 square feet in size, more or less, located in the northwest quadrant of Gude Drive and Southlawn Lane, owned by Louis H. & H.S. Fanaroff, et al, in the I-1 (Service Industrial) Zone.

ACTION STATUS:

FOR THE MEETING OF: 1/10/05

INTRODUCED

PUB. HEARING 1/10/05

INSTRUCTIONS

APPROVED

EFFECTIVE

ROCKVILLE CITY CODE,

CHAPTER

SECTION

☐ CONSENT AGENDA

RECOMMENDATION: Hold public hearing on local map amendment application and hold the public record open for two weeks until January 24, 2005.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

This confirms the existing zoning classification of the property as I-1 (Service Industrial).

BACKGROUND: The petitioner/s request that the I-1 (Service Industrial) Zone classification on the subject property be confirmed.

The subject property is a single parcel of land containing 42,886 square feet (.98 acres) that the applicant intends to develop with a gas station. The parcel is located in the northwest quadrant of Gude Drive and Southlawn Lane. The Mayor and Council annexed the property on July 26, 1999, along with the land area within the Gude Drive and Southlawn Lane intersection. The land area within the intersection is approximately 16,434 square feet in size. In conjunction with the annexation, the Mayor and Council, on August 2, 1999, adopted Zoning Ordinance No. 10-99, placing the properties in the City's I-1 Zone and executed an annexation agreement placing certain use restrictions on the property.

In September 1999, the operator (Rylins Enterprises Inc.) of the gasoline filling station located across the street from the subject property, filed a petition with the Circuit Court of Montgomery County seeking judicial review of Zoning Ordinance No. 10-99. The Circuit Court reversed the City of Rockville's adoption of Zoning Ordinance No. 10-99 as constituting improper conditional and spot

zoning, and remanded the case to the Mayor and Council. The Circuit Court's decision was appealed by the Mayor and Council and the owners of the subject property, and ultimately was affirmed by both the Maryland Court of Special Appeals and the Maryland Court of Appeals. The Court of Appeals decision determined that "the subject property as of September 9, 1999 has been annexed into the City of Rockville, but retains the County's I-2 Zoning classification."

On August 4, 2003 the Mayor and Council enacted Zoning Ordinance No. 23-03 adopting Comprehensive Map Amendment Application No. MAP2003-00087 for the entire City. As part of that comprehensive map amendment the subject property was placed in the City's I-1 (Service Industrial) Zone, without any restrictions. Mr. Sunil Kappor, the current owner of the competing gas station (successor to Rylyns) has disputed the effect of the 2003 comprehensive map amendment on the subject property and maintains that said property retains its original County I-2 Zone. Although the City disagrees with Mr. Kappor's contention and maintains that the subject property is effectively zoned I-1, the applicant has filed the subject local map amendment application to eliminate any confusion that may arise regarding the property's zoning classification.

The City is processing this local map amendment application as a supplement to, and not a substitution for, Comprehensive Map Amendment No. MAP2003-00087. In other words, in processing this application the City does not revoke, repeal, or otherwise alter Map Amendment No. MAP2003-00087 and the effect of that map amendment on the subject property. Any final action on this local map amendment application shall become effective only if a court of competent jurisdiction were to find that the comprehensive map amendment did not properly place the subject property in the City's I-1 Zone.

The following analysis becomes relevant only if Map Amendment No. MAP2003-00087 did not effectively place the subject property in the City's I-1 Zone.

The local map amendment application must satisfy the "change or mistake rule." That is, the Mayor and Council must find either that there has been a change in the character of the neighborhood and/or there has been a mistake in the original zoning. This application satisfies both tests.

The "original" City zoning of the property of I-1 was invalidated due to use restrictions contained in the annexation agreement. That mistake in the original I-1 zoning will be corrected by this local map amendment placing the property in the City's I-1 zone without conditions (In addition, recent legislation adopted by the General Assembly now allows the use restrictions that were invalidated by the Court in the Rylyns case).

In addition, to the extent that the subject property may currently remain in the County's I-2 Zone, a significant and overarching change has occurred since the property's original County zoning – the annexation of the property into the City. The City cannot enforce the County zoning and the County lacks land use authority in the City. The property is in legal limbo for purposes of effective, enforceable zoning and planning of the property. This void is reflected in the County's recently adopted *2004 Upper Rock Creek Master Plan* which fails to make recommendations for this site because it is located within the City. The annexation of the subject property compels a change in the property's zoning from a County zone to an appropriate City zone.

Placement of the subject property in the City's I-1 Zone is supported by the City and County's 1999 *Gude Drive - Southlawn Lane Special Study*, which indicated that small parcels such as the subject property may be appropriate for City's I-1 zoning once annexed into the City, and by the County

Council's original approval of the City's I-1 zone in connection with the annexation of the property.

There has been a clear pattern of intent by Montgomery County, the City of Rockville, and the applicant to place this property in the City's I-1 zone. The City has attempted to zone this property I-1 as part of the annexation process, and subsequently through a comprehensive map amendment. Unfortunately, due to the complicated and unanticipated series of events surrounding this property it appears the current zoning of the property still remains in question. The approval of this local map amendment application will confirm the I-1 zoning of the subject property.

The Planning Commission considered the application at its meeting on December 1, 2004. Based on the information provided, the Commission voted unanimously to recommend to the Mayor and Council the request be approved as submitted. The Mayor and Council were scheduled to hold a public hearing on the request at its December 6, 2004 meeting. At that meeting, the Mayor and Council voted to defer the public hearing on this matter to its January 10, 2005 meeting.

PREPARED BY:

Castor D. Chasten
Castor D. Chasten, Planner III

APPROVE:

Robert J. Spalding
For Robert J. Spalding, AICP, Chief of Planning

12/20/04
Date

Arthur D. Chambers
Arthur D. Chambers, AICP, Director, CPDS

12/20/04
Date

Scott Ullery
Scott Ullery, City Manager

1/01/05
Date

LIST OF ATTACHMENTS:

- a. Staff Report dated November 22, 2004 (Circle Page 1)
- b. Chronology of Events dated October 5, 2004 (Circle Page 10)

CITY OF ROCKVILLE PLANNING DIVISION
STAFF REPORT

November 22, 2004

SUBJECT:

Map Amendment Application MAP2004-00092

Applicant: Miller, Miller & Canby, c/o Jody S. Kline, Esquire
200B Monroe Street, Rockville, Maryland 20850

For: Louis H. & H.S. Fanaroff, et al
5809 Nicholson Lane, Apt. 1009
Rockville, Maryland 20852

Property
Location: Northwest Quadrant of Gude Drive & Southlawn Lane

Planning Commission Review Date: December 1, 2004
Board of Appeals Public Hearing Date: December 6, 2004

PREVIOUS RELATED ACTION:

Annexation Petition ANX99-0124, Louis Fanaroff and Stanford & Elaine Steppa c/o Magruders Holdings, Inc., a request to annex the property located in the northwest quadrant of Gude Drive and Southlawn Lane and the land area within the intersection of Gude Drive and Southlawn Lane, into the City of Rockville from Montgomery County, and upon annexation assign the I-1 (Service Industrial) zoning classification to the property/s. Annexation Resolution No. 13-99 was adopted by the Mayor and Council on July 26, 1999.

Special Exception Application SPX99-0279, Shannon Allcock, a request to develop the property located in the northwest quadrant of Gude Drive and Southlawn Lane for the operation of a Class I automobile filling station, within the proposed I-1 (Service Industrial) Zone. Approved by the Board of Appeals on October 2, 1999.

REQUEST:

The applicant seeks zoning reclassification through a local map amendment of the 42,886 square foot property located in the northwest quadrant of Gude Drive and Southlawn Lane, from Montgomery County's I-2 (Heavy Industrial) Zone to the City of Rockville's I-1 (Service Industrial) Zone. The applicant (property owners) requests that the Mayor and Council affirm the zoning of the subject property to the City's I-1 Zone as intended when the property was annexed into the City of Rockville from Montgomery County, by the Mayor and Council on July 26, 1999.

STAFF RECOMMENDATION:

Approval of reclassification of the property from Montgomery County I-2 (Heavy Industrial) Zone to the City's I-1 (Service Industrial) Zone.

ANALYSIS:

Property Description

The subject property has frontage on two (2) public streets, Gude Drive and Southlawn Lane. The property is undeveloped, triangular in shape, and is approximately 42,886 square feet in size. The property is located within the corporate limits of the City. When the property was annexed by the Mayor and Council on July 26, 1999, the land area within the Gude Drive and Southlawn Lane intersection, public right-of-way (r/w) owned by the County, was also annexed along with the subject site (Ref. ANX97-0124). The land area within the Gude Drive and Southlawn Lane intersection is approximately 16,434 square feet in size. On August 2, 1999 the Mayor and Council adopted Ordinance No.10-99, placing the properties in the City's I-1 (Service Industrial) Zone.

The subject site is bound on the north by a mixture of heavy industrial land uses, east-northeast by a mixture of heavy industrial and convenience retail uses, and south and west by light industrial and commercial land uses. The subject property and abutting properties to the west, north and east are located in the County and zoned I-2 (Heavy Industrial). Properties south and southeast are located in the City and zoned I-1 (Service Industrial).

The property is bound to the north and east by a waste paper recycling facility, several concrete-construction materials processing plants, a moving and storage company, warehousing operations, and a strip retail center containing convenience retail, businesses. Neighboring land uses to the south and west include an automobile filling station, a service industrial and warehousing complex, and a few convenience retail uses.

The property has approximately 402 feet of street frontage along Gude Drive and 200 feet of frontage on Southlawn Lane. These two roadways are heavily traveled. The property is relatively flat with some gentle sloping, gradually falling away from the site's street frontages. Presently, there are only a few modest size trees in evidence on the site. There is however, a linear stand of trees varying in size and species, located along the site's Southlawn Lane street frontage. The remaining vegetation on the site is sparse and is primarily scrub undergrowth.

DISCUSSION:

Based on information provided by the applicant's counsel, during the month of September 1999, the operator (Rylyns Enterprises Inc.) of the gasoline filling station located across the street from

the subject property on Gude Drive, filed a petition with the Circuit Court of Montgomery County seeking judicial review of Ordinance No. 10-99. According to the attached "chronology of events" submitted by the property owner/s counsel, on or about March 17, 2000, the Circuit Court reversed the City of Rockville's adoption of Ordinance No.10-99, holding that the manner in which the property was rezoned constituted improper conditional and spot zoning, and remanded the case to the Mayor and Council.

The Mayor and Council along with the owners of the property filed an appeal with the Maryland Court of Special Appeals. It is noted that on December 31, 2001, the judgment of the lower courts was affirmed by the Court of Appeals. The result of the Court of Appeals decision determined that "the subject property as of September 9, 1999 has been annexed into the City of Rockville, but retains the County's I-2 (Heavy Industrial) Zone."

In order to officially implement the City's I-1 Zoning classification, as was intended when the subject properties were annexed, the property owners in consultation with the Mayor and Council, file the subject "local map amendment" for Mayor and Council consideration and action.

Staff notes that the I-1 Zoning classification is consistent with the City's Master Plan adopted on November 12, 2002, which designates the subject site for service industrial land usage. The I-1 Zone is also in accordance with the Mayor and Council previous adoption of Ordinance No.10-99, placing the property in the City's I-1 Zone (Ref. ANX97-0124).

NOTIFICATION:

Notification is required for the public hearing of a local map amendment in the form of letters sent to property owners that own property immediately adjacent to the subject property.

RECOMMENDATION:

Staff recommends approval of the application as submitted, based on all of the factors noted above.

/cdc

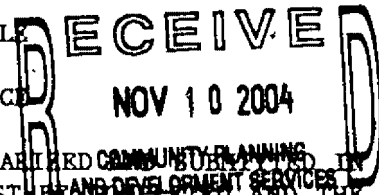
Attachments

Attachment "A" – Map Amendment Application

Attachment "B" – Site Identification Plat

Attachment "C" – Chronology of Events

APPLICATION TO THE CITY OF ROCKVILLE
FOR A MAP AMENDMENT
TO THE ZONING AND PLANNING ORDINANCE



THIS APPLICATION MUST BE TYPEWRITTEN OR PRINTED AND NOTARIZED IN
DUPLICATE TO THE CITY CLERK FOR FILING. ALL ITEMS MUST BE COMPLETED AND THE
REQUIRED DOCUMENTS AND FILING FEE MUST ACCOMPANY THIS APPLICATION.

Miller, Miller & Canby, Attorneys for
Louis H. and H. S. Fanaroff, et al

DO NOT WRITE IN THIS SPACE

Application No. MAP2004-00092

Name of Applicant
200B Monroe Street
Rockville, MD 20850

Filing Date 11/10/04

Filing Fee waived

Address

Public Hearing Date 12/6/04

301-762-5212

Decision/Date _____

Telephone Number

Louis H. and H. S. Fanaroff, et al

Jody S. Kline

Owner (if other than Applicant)

Attorney for Applicant

5809 Nicholson Lane, Apt. 1009
Rockville, MD 20852

Miller, Miller & Canby
200B Monroe Street
Rockville, MD 20850
Address

Address

N/A

301-762-5212

Telephone Number

Telephone Number

APPLICATION IS HEREBY MADE WITH THE ROCKVILLE MAYOR AND COUNCIL FOR APPROVAL OF
THE RECLASSIFICATION OF PROPERTY LOCATED IN ROCKVILLE, MARYLAND, AND KNOWN AS:

Parcel 025, Tax Map FR43

~~xxx~~ -- Block -- Subdivision -- if
boundaries conform to lot boundaries within a subdivision for which a plat is
recorded among the Land Records of Montgomery County. If not, attach a
description by metes and bounds, courses and distances and plat reference.

Also furnish the following information from the tax bill for the land(s) to be
zoned:

DISTRICT	SUBDIVISION	NAME CODE*	LOT	BLOCK	ACRE/FT.	SUBDIVISION OR TRACT NAME
04	201	02051374			42,688 SF	Burgundy Park

*The account number as recorded on the tax docket (Mont. Co.) Assessment Office.

ATTACHMENT "A"

Location of Property: Northwest quadrant of intersection
Southlawn Lane and East Gude Drive
(Street name and number, or, if none, the location with
respect to nearest public roads)

Size: 42,688.00 SF
(Square feet if less than one acre, or acres if one acre or more)

From the I-1 (City) Zone to the I-1 (City) Zone
(Present classification) (Requested classification)

or the _____ Zone.
(Alternate requested classification)

Listed below are the application numbers and dates of filing of, and actions taken on, all prior applications filed within three (3) years prior to this date for the reclassification of the whole or any part of the land above described:

<u>APPLICATION NUMBER</u>	<u>DATE</u>	<u>ACTION TAKEN</u>
N/A		

THE FOLLOWING DOCUMENTS ARE FURNISHED AS PART OF MY APPLICATION:

1. A concise statement of the facts and circumstances upon which the Applicant relies to justify the reason(s) for this reclassification [change in character of the neighborhood, mistake in the original zoning, other reasons]
2. An identification plat prepared by a civil engineer or surveyor certified by him to be correct, showing by metes and bounds, courses and distances the land proposed to be reclassified, or if the boundaries conform to lot boundaries within a subdivision for which a plat is recorded in the Land Records of Montgomery County, then a copy of such plat, the land proposed to be reclassified appearing in a color distinctive from that of other land shown on the plat.
3. A vicinity map shall be furnished by the petitioner covering the area within 1,000 feet of the boundaries of the land covered by this application showing the existing zoning classification of such land as it appears on the official zoning map in the office of the Mayor and Council.

The scale of the identification plat and vicinity map shall be noted thereon and shall be not less than 100 feet to the inch if the land proposed to be reclassified is of an area of ten acres or less and not less than 200 feet to the inch if of an area of more than ten (10) acres. A north direction arrow shall appear on such plat and map.

By: _____

(Signature of Applicant)

Subscribed and sworn before me this 10th day of November, 192004

My Commission Expires: 3/1/07

Doris L. Thomson
Notary Public

In the Matter of the Application of
Miller, Miller & Canby
for Rezoning

Application No. _____

STATEMENT IN SUPPORT OF APPLICATION FOR REZONING

This application is intended to confirm I-1 (Light Industrial) zoning for the subject 0.9845 acre parcel located at the intersection of Gude Drive and Southlawn Lane. The unusual zoning history of this property is an integral part of the justification for this requested rezoning.

In July, 1999, the Mayor and City Council annexed the subject property (ANX 97-0124) and simultaneously placed Rockville's I-1 zoning on the land. Subsequently, a series of court decisions culminated in a ruling by the Court of Appeals of Maryland that ratified the City's annexation action, but ruled invalid the I-1 zoning concurrently placed on the property. The result of the December 31, 2002 Court of Appeals decision had the bizarre effect of leaving the subject property within the boundaries of the City of Rockville but retaining Montgomery County's I-2 zoning.

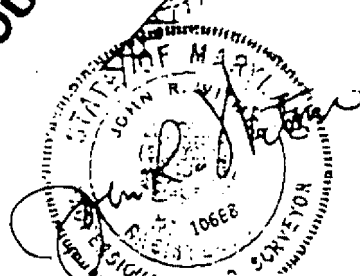
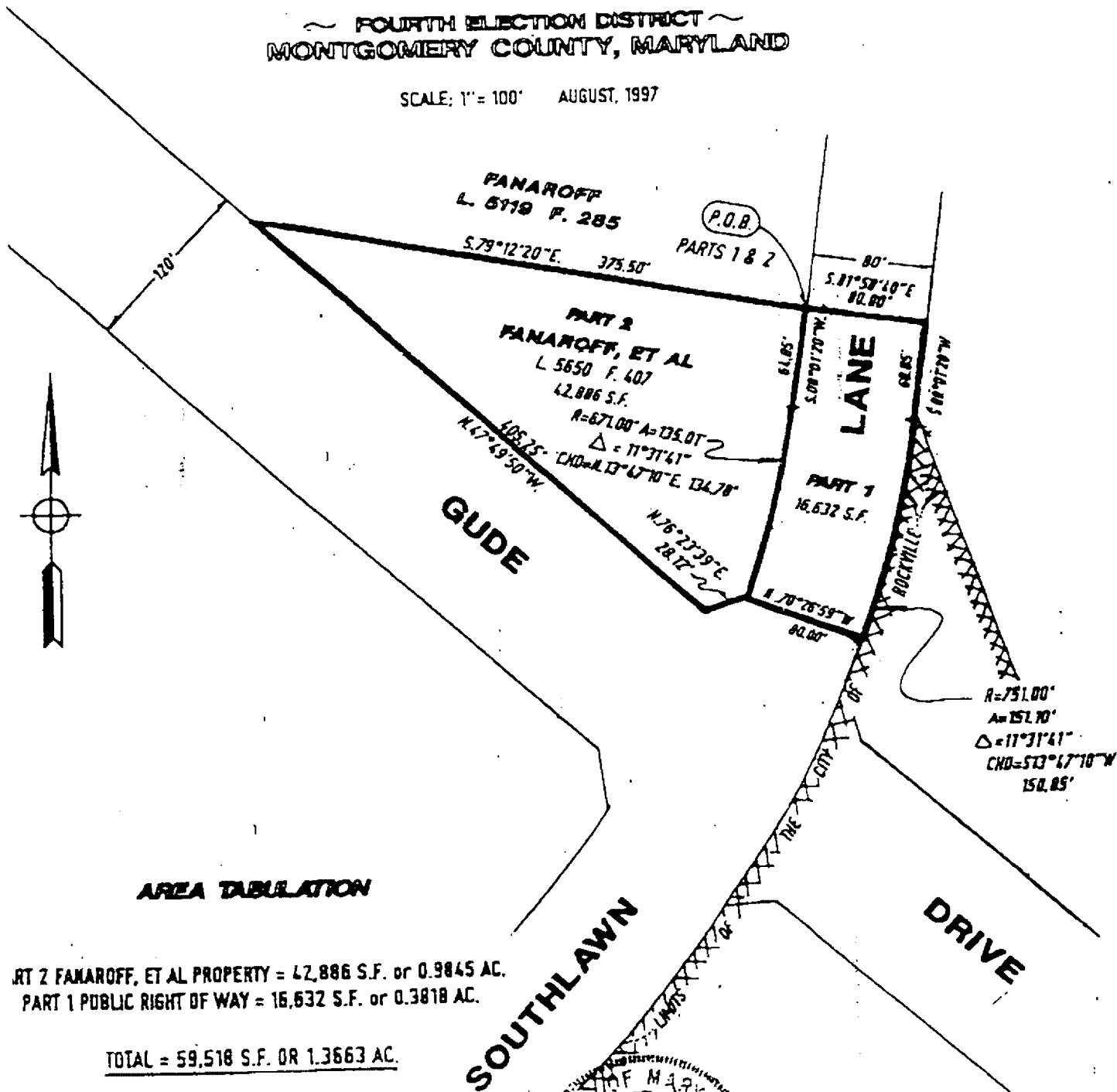
In 2003, the City adopted a new Town Master Plan which recommended I-1 zoning for the subject property. Subsequently, the City Council approved a sectional map amendment that rezoned the subject property from, essentially, an unzoned condition to I-1, the same zone originally contemplated for the subject property.

Prior to development commencing on the subject property, a legal question was raised about the validity of the 2003 comprehensive rezoning. In order to avoid any potential of prolonged litigation over the legitimacy of the City Council's 2003 rezoning, this application will confirm the City's I-1 zoning that already exists on the property.

FANAROFF, ET AL PROPERTY & PART OF SOUTHLAWN LANE RIGHT-OF-WAY

~ FOURTH ELECTION DISTRICT ~
MONTGOMERY COUNTY, MARYLAND

SCALE: 1" = 100' AUGUST, 1997

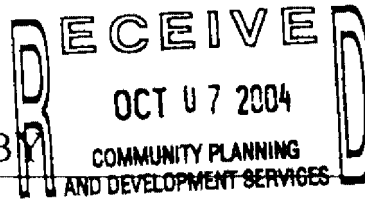


WITMER ASSOCIATES, LLC
Land Surveying, Land Planning & Design
354-A Kensington Drive, Rockville, MD 20850
Tel: (301) 309-6600 Fax: (301) 309-6600

LAW OFFICES

MILLER, MILLER & CANBY

CHARTERED

200-B MONROE STREET
ROCKVILLE, MARYLAND 20850(301) 762-5212
FAX (301) 762-6044

JAMES R. MILLER, JR. *
PATRICK C. MCKEEVER
JAMES L. THOMPSON
LEWIS R. SCHUMANN
JODY S. KLINE
ELLEN S. WALKER
MAURY S. EPNER
JOSEPH P. SUNTUM
SUSAN W. CARTER
ROBERT E. GOUGH
DONNA E. McBRIDE
MICHAEL G. CAMPBELL
SOO LEE-CHO
W. CHRISTOPHER ANDREWS
*Of Counsel

October 5, 2004

Mr. Cas Chasten
Rockville City Hall
111 Maryland Avenue
Rockville, MD 20850

RE: Special Exception for Automobile Filling Station;
Northwest Quadrant of Gude Drive and South

Dear Cas:

As requested, I am pleased to enclose a document entitled "Chronology of Events; City of Rockville, Annexation Petition No. ANX97-0124" which highlights the critical dates and events related to development approvals for the above-referenced property. Please feel free to use the attached material in any way you deem necessary in preparation of your staff report.

Sincerely yours,

MILLER, MILLER & CANBY

Jody S. Kline

JSK/dlt

Attachment

cc: Mr. Bob Spalding
Mr. Ray Norris
Mr. Stephen Petersen

ATTACHMENT "C"

CHRONOLOGY OF EVENTS
CITY OF ROCKVILLE, ANNEXATION PETITION NO. ANX97-0124

Subject Property - Situated in the Northwest Quadrant of Intersection at Gude Drive and Southlawn Lane

- May 14, 1997: Property owners file Petition for Annexation with the City of Rockville.
 - The Petition requested that, upon annexation, the property be rezoned from the County's I-2 (Heavy Industrial) zone to the City's I-1 (Service Industrial) zone, consistent with the zoning of adjacent properties located within the City's boundaries.
 - The City's 1993 Master Plan recommended that the property (should it be annexed) be placed in the City's I-1 zone.
 - The owners indicate an intention and desire to erect and operate a gasoline service station with ancillary uses on the subject property, a use allowed under the City's I-1 zone with the grant of a special exception.
- January 8, 1998: M-NCPPC Staff recommendation states that the "proposed I-1 (Service Industrial) zoning classification is generally consistent with the Upper Rock Creek Master Plan recommendation of I-2 (Heavy Industrial) Zone recommendation..." and that "[t]he proposed use for a gas station is consistent with the County's I-2 Zone, which allows a gas station by special exception."
- January 15, 1998: Montgomery County Planning Board considers the proposed annexation/rezoning of the subject property, but disagrees with Staff's recommendation and expresses concern "about the loss of I-2 zoned land through annexation and rezoning to allow additional non-industrial uses (i.e., automobile filling station) in the area." The Planning Board's comments on the annexation petition were, in part, as follows:
 - "Industrial uses in the City's proposed I-1 (Service Industrial) zoning classification are not consistent with the Upper Rock Creek Master Plan recommendation of the I-2 Zone (Heavy Industrial). The applicant suggests possible use of the site for a gas station, restaurant or other retail use. The County's I-2 Zone allows a gas station by special exception. However retail uses and restaurants are not allowed."
 - "The County Council needs to review this petition because there are significant differences in the zones and future land uses in the area may require improvements to the intersection of Southlawn Lane and Gude Drive."

NOTE BENE: Section 19, Article 23, of the Annotated Code of Maryland provides that for 5 years after annexation a municipality cannot bestow on a property a zoning classification that will allow a land use different than permitted in the zone recommended in the County's Master Plan unless the County Council approves and consents to such zoning.

- June 18, 1998: Planning Board clarifies its position in a letter to the City of Rockville that the proposed use of the subject property for a gasoline station was not an appropriate use for the property, as it was no longer allowed under the County's I-2 zone.
 - The Board again expressed concern "about piecemeal loss of land zoned for heavy industrial uses through the annexation process" as well as the "impact the proposed annexation will have on potential future improvements to the intersection of Southlawn Lane and Gude Drive, should development in the area make such improvements necessary."
- July 13, 1998: County Council's Planning, Housing and Economic Development Committee recommends, by a vote of 3-0, that the full County Council disapprove the request to rezone the subject property based on the Planning Board's reasoning as follows:
 - "[T]he use of the Fanaroff site for a gasoline service station is no longer considered appropriate, since the gasoline service station is no longer a use permitted by right or special exception in the I-2 zone..."
 - "[T]he uses allowed in the County's I-2 zone are the most appropriate uses for the site..."
 - "[T]he properties in the Southlawn area take on an increased importance to the overall inventory of I-2 land because the properties are of varying sizes and in various ownerships, making them available for the full array of permitted and special exception uses allowed in the I-2 zone."
- July 28, 1998: County Council adopts Resolution No. 13-1384 disapproving the request of the owners and the City of Rockville to rezone the property to the City's I-1 zone.
- October 1998 - February 1999: Subsequent to the County Council's adoption of a resolution of denial, owners' representatives present further information to the County Council, resulting in the PHED Committee's reconsideration of the annexation petition.
- February 3, 1999: Councilmember Phil Andrew states rationale for supporting a favorable reconsideration in a memorandum to Ralph Wilson, Senior Legislative Analyst.

- "The Council's previous refusal to endorse the Fanaroff annexation petition was based, in part, on concurrence with the Planning Board's concern about the overall negative trend in the Southlawn area's inventory of heavy industrial land. This broad concern is now the subject of a special joint study by the City of Rockville and Planning Board staff."
- "Given the small size of the Fanaroff property (less than one acre), favorable reconsideration of the Fanaroff annexation petition would have no substantive impact on any future Council action that may stem from the results of the Southlawn area special study."
- "Therefore, given the small size of the Fanaroff property and subsequent developments in addressing the broad issue of commercially available heavy industrial land in Montgomery County, I believe that favorable reconsideration of this annexation petition is justified. I am also confident that such reconsideration appropriately addresses the well-being of the nearby Lincoln Park community and that any concern over traffic management issues in the Southlawn area will be properly addressed by the City of Rockville and County Government."
- February 8, 1999: PHED Committee indicates in a memorandum to the County Council that upon reexamination of the owner's petition for annexation and rezoning that it would support the rezoning, "provided the City restrict the retail use of the site..."
- February 23, 1999: County Council adopts Resolution No. 14-57 approving the City's proposal to rezone the property to the City's I-1 zone on condition that "the City prohibits the retail use of the site, except for a gasoline service station."
- July 20, 1999: Mayor and Council of Rockville enter into a written annexation agreement with the owners regarding the subject property.
 - One of the conditions included in the agreement stated that "[t]he subject property may not be used for retail use, except for a gasoline service station."
- July 26, 1999: Mayor and Council of Rockville adopt Annexation Resolution No. 13-99, enlarging and extending the boundaries of the City of Rockville by annexing the subject property.
 - The Annexation Resolution did not mention anything regarding the proposed use of the site, nor did it include any language relative to the condition that was later found to be objectionable by the Court of Appeals.
- August 2, 1999: Mayor and Council of Rockville adopt Zoning Ordinance No. 10-99, placing the property in the City's I-1 zoning classification.

- Although Zoning Ordinance No. 10-99 did not explicitly provide that the property could not be used for any retail purpose other than a gasoline service station, it stated that "the Mayor and Council of Rockville, having fully considered the matter, has determined to place the annexed property in the City's I-1 zone, under certain conditions to be set forth in an annexation agreement..."
- September 1999: The operator of a gasoline filling station located across from the subject property (Rylins) files a petition with the Circuit Court of Montgomery County seeking judicial review of Zoning Ordinance No. 10-99.
- March 17, 2000: Circuit Court reverses Rockville's adoption of Zoning Ordinance No. 10-99, holding that the manner in which the subject property was rezoned constituted improper conditional and spot zoning, and remanded the case to the Mayor and Council.
- (Date Uncertain): The Mayor and Council and the owners file an appeal with the Court of Special Appeals.
- (Date Uncertain): The decision of the Montgomery County Circuit Court affirmed by the Court of Special Appeals.
- (Date Uncertain): The Mayor and Council and the owners petition the Court of Appeals for a writ of certiorari. Petition is accepted.
- December 31, 2001: Judgment of the lower courts is affirmed by the Court of Appeals.
- Court of Appeals held that Zoning Ordinance No. 10-99 constituted impermissible conditional use zoning because the City endeavored to foreclose, by a limitation pertaining only to the subject property of this case, all of the otherwise permitted commercial retail uses, and impliedly those commercial retail uses, other than a gasoline service station (allowable by special exception), in the I-1 zone.

RESULT OF COURT OF APPEALS' DECISION: The subject property has, as of September 9, 1999, been annexed into the City of Rockville, but retains the County's I-2 zoning classification.